

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Paul Simon D/B/A Paul Simon Music,

Plaintiff,

v.

Rhythm USA, Inc. et al.,

Defendants.

Case No. 08-Civ-6440 (CM)

**DECLARATION OF BRYAN J. VOGEL, ESQ. IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS AND/OR MOTION TO TRANSFER**

I, Bryan J. Vogel, declare as follows:

1. I am an attorney in the New York office of Lovells LLP.
2. I am a member of the New York bar and in good standing.
3. I certify that the "Judicial Caseload Profile", attached as Exhibit A, for the United States District Court for the Southern District of New York is a true and correct copy of the "Judicial Caseload Profile" located at <http://www.uscourts.gov/cgi-bin/cmsd2007.pl> as of October 27, 2008.
4. I certify that the "Judicial Caseload Profile", attached as Exhibit B, for the United States District Court of the Northern District of Georgia is a true and correct copy of the "Judicial Caseload Profile" located at <http://www.uscourts.gov/cgi-bin/cmsd2007.pl> as of October 27, 2008.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct, this 28th day of October 2008.

/s/ Bryan J. Vogel

Bryan J. Vogel